

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
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Date _____

Time _____

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Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

by deleting all provisions of the bill following the enacting clause and substituting the following:

SECTION 1. This act shall be known and may be cited as the "Tennessee Public Charter Schools Act of 2002."

SECTION 2.

(a) The purpose of this act is to:

(1) Improve learning for all students and close the achievement gap between high and low students;

(2) Provide options for parents to meet educational needs of students in low performing schools.

(3) Encourage the use of different and innovative teaching methods, and provide greater decision making authority to schools and teachers in exchange for greater responsibility for student performance;

(4) Measure performance of pupils and faculty, and ensure that children have the opportunity to reach proficiency on state academic assessments;

(5) Create new professional opportunities for teachers;

(6) Afford parents substantial meaningful opportunities to participate in the education of their children.

(b) It is the intention of this act to provide an alternative means within the public school system for ensuring accomplishment of the necessary outcomes of education by allowing the establishment and maintenance of public charter

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

schools that operate within a school district structure but are allowed maximum flexibility to achieve their goals.

(c) It is the intent of this act to provide both the state department of education and local school systems with options relative to the governance and improvement of low performing schools failing to meet adequate yearly progress as outlined in both TCA 49-1-602 and the federal Elementary and Secondary Education Act.

(d) It is the intent of this act to provide the state department of education and local school systems with options relative to the delivery of instruction for those students with special needs as specified in the federal IDEA.

(e) It is the intent of this act to provide local school systems the option to work in concert with the state's public higher education institutions to establish charter school "laboratories of teaching and learning" as a means of fostering educational innovations for implementation statewide.

SECTION 3. This act applies only to schools formed and operated hereunder.

SECTION 4. DEFINITIONS.

(1) "Charter agreement" means a performance-based agreement between the sponsor of a public charter school and the chartering authority, the terms of which are approved by the local board of education for an initial period of five (5) years.

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

(2) "Chartering authority" means the local board of education which approves, renews or decides not to revoke a public charter school application or agreement.

(3) "Governing body" means the organized group of persons who will operate a public charter school by deciding matters including, but not limited to, budgeting, curriculum and other operating procedures for the public charter school and by overseeing management and administration of a public charter school.

(4) "Licensed teacher" means a person over the age of eighteen (18) who meets the qualifications of Title 49, Chapter 5, Part 1 and has received a license to teach in the public school system in compliance with the rules and regulations of the state board of education.

(5) "Local education agency" has the same definition as used in Section 49-3-302.

(6) "Public charter school" means a public school in the state of Tennessee that is established and operating under the terms of a charter agreement and in accordance with this act.

(7) "Sponsor" means any individual, group, or other organization filing an application in support of the establishment of a public charter school.

SECTION 5. STATUTES, RULES AND REGULATIONS.

(a) Public charter schools shall be part of the state program of public education.

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

(b) A public charter school is exempt from all statutes, rules and regulations applicable to a school, a school board, or a local education agency, except those identified as not subject to waiver in accordance with guidelines developed by the department of education.

SECTION 6. CREATION OR CONVERSION OF CHARTER SCHOOLS.

(a) Public charter schools may be formed to:

(1) Address the unique needs of students eligible for special education as identified in IDEA;

(2) Provide alternatives for students in schools failing to make adequate yearly progress, not to exceed the total number of schools on probation as defined by the state's accountability system;

(3) Provide local school systems the option to work in concert with the state's higher education institutions; and

(4) Provide for other model sites, not to exceed ten (10) sites statewide per year.

(b) A public charter school may be formed by creating a new school or converting an existing public school to charter status pursuant to the provisions of this act.

(1) Newly created public charter schools:

(A) The sponsor of a public charter school must file a public charter school application with the local board of education

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

on or before November 15 of the year preceding the year in which the proposed public charter school plans to begin operation.

(B) Upon approval of a charter application, the sponsor shall authorize a governing body to operate the public charter school. A public charter school shall be operated by a not-for-profit organization. No charter shall be granted to a for-profit corporation.

(2) Conversion of existing schools to charter status:

(A) Any existing public school may convert to a public charter school pursuant to the provisions of this act if the parents of sixty percent (60%) of the children enrolled at the school agree and demonstrate support by signing a petition seeking conversion. Parents whose children are enrolled at the school shall have the option to enroll their child in another public school without penalty.

(B) A LEA may convert any existing public school to a public charter school pursuant to subsections (a)(1), (2), and (3) of this section. Parents whose children are enrolled at the school shall have the option to enroll their child in another public school without penalty.

(C) The conversion must occur at the beginning of an academic school year and shall be subject to compliance with this act.

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

(c) No charter agreement shall be granted under this act that authorizes the conversion of any private, parochial, cyber-based, or home-based school to charter status.

(d) Nothing in this act shall be construed to prohibit any individual or organization from providing funding or other assistance to the establishment or operation of a public charter school

SECTION 7. APPLICATION PROCESS.

(a) On or before November 15 of the year preceding the year in which the proposed public charter school plans to begin operation, the sponsor seeking to establish a public charter school shall prepare and file with the local board of education an application providing the following information and documents:

(1) A statement defining the mission and goals of the proposed public charter school;

(2) The proposed instructional goals and methods for the school, which, at a minimum, shall include teaching and classroom instruction methods that will be used to provide students with the knowledge, proficiency, and skills needed to reach the goals of the school;

(3) A plan for evaluating student academic achievement at the proposed public charter school and the procedures for remedial action that will be used by the school when the academic achievement of a student falls below acceptable standards;

(4) An operating budget based on anticipated enrollment;

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

(5) The method for conducting annual audits of the financial, administrative and program operations of the school;

(6) A timetable for commencing operations as a public charter school which shall provide for a minimum number of academic instruction days, which shall not be fewer than those required by statute.

(7) The proposed rules and policies for governance and operation of the school;

(8) The names and addresses of the members of the governing body;

(9) A description of the anticipated student enrollment and the nondiscriminatory admission policies;

(10) The code of behavior and discipline of the proposed public charter school;

(11) The plan for compliance with the applicable health and safety laws and regulations of the federal government and the laws of the state of Tennessee;

(12) The qualifications required of employees of the proposed public charter school;

(13) The identification of the individuals and entities sponsoring the proposed public charter school, including their names and addresses;

(14) The procedures governing the deposit and investment of idle funds, purchasing procedures, and comprehensive travel regulations;

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

(15) The plan for the management and administration of the school;

(16) A statement of assurance of liability by the governing body of the charter school;

(17) Types and amounts of insurance coverage to be held either by the charter school or approved by the local board of education; and

(18) The plan for transportation for the pupils attending the charter school.

(19) Information regarding financing commitments from equity investors or debt sources for cash or similar liquid assets sufficient to demonstrate that the charter school will have liquid assets sufficiently available to operate the school on an ongoing and sound financial basis. In lieu of cash or similar liquid assets, an applicant may provide a financial bond.

SECTION 8. APPROVAL, DENIAL OF APPLICATION.

(a) The local board of education shall have the authority to approve applications to establish public charter schools and renew public charter school agreements. The local board of education shall rule by resolution, at a regular or special called meeting, on the approval or denial of a charter application within sixty (60) days of receipt of the completed application. Should the local board of education fail to either approve or deny a charter application within the sixty (60) day time limit herein prescribed, such application shall be deemed approved.

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

**Winningham
Signature of Sponsor**

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

(b) The local board of education shall not deny an application on the basis that approval of the application might exceed the maximum number of public charter schools provided for in Section 6 of this act. The grounds upon which the local board of education based a decision to deny a public charter school application must be stated in writing, specifying objective reasons for the denial. Upon receipt of the grounds for denial, the sponsor shall have fifteen (15) days within which to submit an amended application to correct the deficiencies. The local board of education shall have fifteen (15) days either to deny or to approve the amended application.

(c)

(1) A denial by the local board of education of an application to establish a public charter school may be appealed by the sponsor, within ten (10) days of the final decision to deny, to the state board of education. The appeal and review process shall be as follows:

(A) Within sixty (60) days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing which may be held in the school district in which the proposed charter school has applied for a charter, shall review the decision of the local board of education and make its findings. If the state board finds that the local board's decision was contrary to the best interests of the pupils, school district, or community, the state

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

board shall remand such decision to the local board of education with written instructions for approval of the charter. The decision of the state board shall be final and not subject to appeal.

SECTION 9. APPLICABLE CAPS.

Immediately upon approval of a charter, the chartering authority shall notify the department of education. Date of the official action by the chartering authority shall be considered by the department in determining whether the charter is permitted under the applicable caps contained in this act.

SECTION 10. CHARTER AGREEMENT.

(a) The approval by the chartering authority of a public charter school application shall be in the form of a written agreement signed by the sponsor and the chartering authority, which shall be binding upon the governing body of the public charter school. The charter agreement for a public charter school shall be in writing and contain all components of the application.

(b) The governing body of the charter school may amend the original charter by making petition to the chartering authority. Timelines for approval and the appeal process in Section 8 shall apply to all petitions to amend the original charter.

SECTION 11. COMPLIANCE.

(a) A public charter school shall:

(1) Operate as a public, nonsectarian, non-religious public school, with control of instruction vested in the governing body of the school

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

under the general supervision of the chartering authority and in compliance with the charter agreement and this act;

(2) Meet the same performance standards and requirements adopted by the state board of education for public schools.

(3) Receive state, federal, and local funds from the local board of education; and

(4) Provide special education services for students as provided in Title 49, Chapter 10.

(b) A public charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, national origin, religion, ancestry, or need for special education services. A public charter school may not violate or be used to subvert any state or federal court orders in place in the local school district.

(c) A public charter school shall comply with all applicable health and safety standards, regulations and laws of the United States and the State of Tennessee.

(d) A public charter school shall be accountable to the chartering authority for the purposes of ensuring compliance with the charter agreement and the requirements of this act.

(e) All contracts for goods and services in excess of five thousand dollars (\$5,000) shall be bid and must be approved by the governing body of each public charter school.

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

(f) A public charter school shall be governed and managed by a governing body in a manner agreed to by the sponsor and the chartering authority as provided in the charter agreement.

(g) With regard to conflicts of interest, the governing body of a public charter school shall be subject to the provisions of Sections 12-4-101 and 12-4-102.

(h) The meetings of the governing body of a public charter school shall be deemed public business and must be held in compliance with Title 8, Chapter 44, Part 1.

(i) All teachers in a public charter school must have a current valid Tennessee teaching license, or meet the minimum requirements for licensure as defined by the state board of education.

(j) A public charter school is subject to state audit procedures and audit requirements.

(k) A public charter school shall not charge tuition; provided, however, tuition may be charged if the governing body of the charter school approves a transfer from another district to a public charter school in its district pursuant to the provisions of Section 49-6-3003.

(l) A charter school shall be operated on a July 1 to June 30 fiscal year and the governing body shall adopt and operate under an annual budget for such fiscal year. The budget shall be prepared in the same format as that required by the state department of education for local education agencies.

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

(m) A charter school shall maintain its accounts and records in accordance with generally accepted accounting principles and in conformance with the uniform chart of accounts and accounting requirements prescribed by the comptroller of the treasury. The charter school shall prepare and publish an annual financial report that encompasses all funds. The annual financial report shall include the audited financial statements of the charter school.

(n) A charter school shall require any member of the governing body, employee, officer or other authorized person who receives funds, has access to funds, or has authority to make expenditures from funds, to give a surety bond in the form prescribed by Section 8-19-101. The cost of such surety bond shall be paid by the charter school and in such amount as determined by the governing body.

SECTION 12. FUNDING.

(a) The local board of education shall allocate one hundred percent (100%) of the state and local education funds to the charter school on the per pupil expenditure of the local education agency. The per pupil expenditure shall be based on the prior year average daily membership (ADM) of the LEA. All funds shall be spent according to the budget submitted in the charter agreement, or as otherwise revised by the public charter school governing body, subject to the requirements of state and federal law. At the request of the governing body of the public charter school, the local board of education may act as fiscal agent for a public charter school or distribute the allocated funds to the public charter

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

school to be administered in compliance with the charter agreement and state and federal laws.

(b) Funds which would otherwise be allocated on the basis of enrollment in the prior year shall be allocated, during the first full academic year of operation of any public charter school, on the basis of the anticipated enrollment in the charter agreement, which amount may be subsequently adjusted to reflect the actual number of students enrolled.

(c) In order to comply with the requirements for allocating funds to the public charter school, the local board of education may provide liability or other forms of insurance pursuant to the charter agreement.

(d) A public charter school may also be funded by federal grants, grants, gifts, devises, or donations from any private sources, and state funds appropriated for the support of the public charter school, if any, and any other funds that may be received by the local school district. Public charter schools, the local board of education and the state department of education are encouraged to apply for federal funds appropriated specifically for the support of public charter schools.

SECTION 13. ENROLLMENT.

(a) Participation in a public charter school shall be based on parental choice.

(b) A charter school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

program, class, grade level, or building. In this case, pupils shall be enrolled on the basis of a lottery.

(c) Preference may be afforded to the siblings of a pupil who is already enrolled and to the children of a teacher, sponsor or member of the governing body of the charter school, not to exceed ten (10%) of total enrollment or twenty-five (25) students, whichever is less.

SECTION 14. TRANSPORTATION.

(a) If a public charter school elects to provide transportation for its pupils, the transportation shall be provided by the school or by agreement with the local education agency within the district in which the school is located in the same manner it would be provided if the students were enrolled in any other school within the local education agency. If a public charter school elects not to provide transportation for its pupils, the school shall not receive the funds that would otherwise have been spent to do so.

(b) For pupils who reside outside the district and who have been approved by the governing board of a charter school to attend a public charter school, the school is not required to provide or pay for transportation.

(c) At the time a pupil enrolls in a public charter school, the school shall provide the child's parent or guardian with information regarding transportation.

SECTION 15. CONDITIONAL APPROVAL.

If approval is a prerequisite for the sponsor to raise working capital, a chartering authority may grant conditional approval for a charter application. The chartering

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

authority shall grant full approval subject to the sponsor providing information regarding financing commitments from equity investors or debt sources for cash or working capital sufficient to demonstrate that charter school will have liquid assets sufficiently available to operate the school on an ongoing and sound financial basis. In lieu of cash or similar liquid assets, an applicant may provide a financial bond.

SECTION 16. DISSEMINATION OF INFORMATION.

The state department of education shall provide information to the public, directly and through the local board of education, on how to form and operate a public charter school. This information shall include a standard application format which shall include the information specified in Section 7 of this act.

SECTION 17. LEAVES OF ABSENCE FOR TEACHERS.

(a) If a teacher employed by a local education agency makes a written request for an extended leave of absence to teach at a public charter school, the local education agency may grant the leave. Any extensions are at the discretion of the local education agency. The leave shall be governed by Title 49, Chapter 5, Part 7, including, but not limited to, reinstatement, notice of intention to return, seniority, salary, and insurance.

(b) The years of service acquired by a teacher while on a leave of absence to teach at a public charter school may, at the discretion of the local board, be used to obtain or determine tenure status.

(c) For salary rating purposes, a teacher shall receive credit for years of service acquired while teaching at a public charter school.

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

SECTION 18. BARGAINING UNITS.

Employees of a charter school may, if otherwise eligible, organize under the “Education Professional Negotiations Act”, Title 4, Chapter 5, Part 6, and comply with its provisions upon the formation of one or more bargaining units at the school. Bargaining units at the school shall be separate from any other unit within the local education agency. Bargaining units in charter schools may elect to represent themselves in negotiations with their governing body, or they may elect to be represented by any qualified person or organization, including the local bargaining unit within the local education agency.

SECTION 19. GROUP INSURANCE.

Teachers, as defined in Section 8-34-101(46), of a public charter school shall participate in the group insurance plans authorized in Title 8, Chapter 27, Part 3 in the same manner as teachers of the local education agency.

SECTION 20. RETIREMENT BENEFITS.

Tennessee Code Annotated, Title 8, Chapter 35, Part 2, is amended by adding the following as a new, appropriately designated section:

Section 8-35-2 (___)

(a) All teachers and employees of a public charter school that converts from a public school shall continue to participate in the same retirement program as the teachers and employees of the local board of education to which the charter school is associated. Such participation shall be under the same terms and conditions as the teachers and

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

employees of the local board of education. For retirement purposes, all teachers and employees of such a public charter school shall be considered employees of the local board of education and such board of education shall be responsible for all reporting and submission of funds to the appropriate retirement system.

(b) All teachers and employees of a new public charter school shall participate in the same retirement program as the teachers and employees of the local board of education to which the charter school is associated. Such participation shall be under the same terms and conditions as the teachers and employees of the local board of education. For retirement purposes, all teachers and employees of such a public charter school shall be considered employees of the local board of education and such board of education shall be responsible for all reporting and submission of funds to the appropriate retirement system.

SECTION 21. REPORTING REQUIREMENTS.

The governing body of the public charter school shall make at least an annual progress report to the sponsor of the school, the chartering authority, Education Oversight Committee of the General Assembly, and the commissioner of education. The report shall contain at least the following information:

- (1) The progress of the school toward achieving the goals outlined in its charter;

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

(2) The same information required in the reports prepared by local boards of education pursuant to state laws, rules and regulations; and

(3) Financial records of the school, including revenues and expenditures.

The reports made pursuant this section shall be public information pursuant to the provisions of Section 10-7-504(a)(4).

SECTION 22. TERM OF CHARTER – RENEWAL.

(a) New public charter schools, conversion schools and all renewals of charter agreements shall be for five-year periods.

(b) No later than November 15 of the year prior to the year in which the charter expires, the governing body of a public charter school shall submit a renewal application to the chartering authority. The chartering authority shall rule by resolution, at a regular or special called meeting, on whether to approve or deny the renewal application. The decision of the chartering authority shall be based on the report and evaluation provided for in Section 21. A decision by the chartering authority to deny renewal may be appealed by the governing body, within ten (10) days of the decision to deny, to the state board of education, unless the state chartering board is the chartering authority. If the state board of education approves the renewal of the charter agreement, the public charter school shall continue to operate for the prescribed period of five (5) academic years. A decision by the state board of education to deny the renewal of a charter agreement shall be final. No appeal may be taken.

(c) A public charter school renewal application shall contain:

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

(1) A report on the progress of the school in achieving the goals, objectives, pupil performance standards, content standards, and other terms of the approved charter agreement; and

(2) A financial statement that discloses the costs of administration, instruction, and other spending categories for the school.

SECTION 23. REVOCATION OR RENEWAL OF CHARTER.

(a) A public charter school agreement may be revoked or denied renewal by the final chartering authority if such chartering authority determines that the school did any of the following:

(1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter;

(2) Failed to meet or make adequate yearly progress toward achievement of the state's accountability system; or

(3) Failed to meet generally accepted standards of fiscal management.

(b) If the chartering authority revokes or does not renew a charter agreement, the chartering authority shall state its reasons for the revocation or nonrenewal.

(c) Except where the chartering authority is the state board of education, a decision not to renew or to revoke a charter agreement may be appealed to the state board of education within ten (10) days of the decision. If the state board of

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

education decides to renew or not to revoke the charter, the state board of education shall be the chartering authority for such school.

(d) Except in the case of fraud, misappropriation of funds, flagrant disregard of the charter agreement or the provisions of this act or similar misconduct, a decision to revoke a charter shall become effective at the close of the academic year.

SECTION 24. ENROLLMENT OF STUDENTS IN TERMINATED CHARTER SCHOOL.

If a charter agreement is not renewed or is terminated in accordance with Section 23 of this act, a pupil who attended the school, siblings of the pupil, or another pupil who resides in the same place as the pupil may enroll in the resident district or may submit an application to a nonresident district according to the provisions of Section 49-6-3105, at any time. Applications and notices required by this section shall be processed and approved in a prompt manner.

SECTION 25. CHARTER SCHOOL POWERS.

The governing body of a public charter school may sue and be sued. The governing body may not levy taxes or issue bonds except in accordance with state law. A public charter school may conduct activities necessary and appropriate to carry out its responsibilities such as:

- (1) Contract for services, except for the management or operation of the charter school by a for-profit entity;
- (2) Buy, sell or lease property; borrow funds as needed; and

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

(3) Pledge its assets as security, provided however those assets are not leased or loaned by the state or local government.

SECTION 26. IMMUNITY.

The governing body of a charter school shall be subject to the same limits of liability as local school systems.

SECTION 27. PROMULGATION OF RULES AND REGLATIONS.

The state board of education is authorized to promulgate rules and regulations for the administration of this act.

SECTION 28.

(a) The comptroller of the treasury is hereby authorized to audit any books and records, including internal school activity and cafeteria funds, of any charter school created under this act and by virtue of the statutes of the state of Tennessee when such audit is deemed necessary or appropriate by the comptroller of the treasury. The comptroller of the treasury shall have the full cooperation of officials of the charter school in the performance of such audit or audits.

(b)

(1) The governing body of the charter school shall cause an annual audit to be made of the accounts and records, including internal school activity and cafeteria funds, of their school. Such audits may be prepared by certified public accountants or by the department of audit.

House Education Committee Amendment No. 1, as amended

Amendment No. 1 to HB1131

Winningham
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 887*

House Bill No. 1131

(2) The audit shall be completed as soon as practical after June 30 of each year and a copy of such audit shall be furnished to the local board of education, the special joint oversight committee on education, the commissioner of education and the comptroller of the treasury.

(c) The comptroller of the treasury, through the department of audit, shall be responsible for ensuring that the audits are prepared in accordance with generally accepted auditing standards and determining if the audits meet minimum audit standards and regulations which shall be prescribed by the comptroller of the treasury. No audit may be accepted as meeting the requirements of this section until such audit has been approved by the comptroller of the treasury. In the event the governing body fails or refuses to have the audit prepared, then the comptroller of the treasury may appoint a certified public accountant or direct the department of audit to prepare the audit, the cost of such audit shall be paid by the governing body.

SECTION 29. EFFECTIVE DATE.

This act shall take effect upon becoming law, the public welfare requiring it.